

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 18-11814-GAO

FOTOHAUS, LLC,  
Plaintiff,

v.

TOCCI BUILDING CORPORATION,  
Defendant.

ORDER  
February 15, 2019

O'TOOLE, D.J.

The defendant, Tocci Building Corporation, moved to dismiss Fotohaus, LLC's complaint alleging violations of federal copyright law. (Mot. to Dismiss (dkt. no. 9).) Tocci asserted that Fotohaus was not entitled to relief because it was not the owner of the copyrighted photograph at issue. Tocci further argued that Massachusetts law restricts Fotohaus from filing a lawsuit in any court in Massachusetts (including this Court) unless and until it has registered with the Secretary of State as a foreign limited liability company.

Fotohaus thereafter amended its complaint to allege that a third-party, Daniel Foster, took the photograph, registered it with the U.S. Copyright Office, and in March 2017 assigned the copyright to Fotohaus. (Am. Compl. ¶¶ 8–11 (dkt. no. 10).) The amended complaint therefore cures any previous defect in the pleadings regarding Fotohaus' standing to sue regarding the photograph.

Tocci's argument that Massachusetts General Laws Chapter 156C, Section 54(a) bars Fotohaus from suing in this Court under federal copyright law is frivolous. State law cannot bar Fotohaus from seeking relief in federal court on exclusively federal claims. See U.S. Const. art.

VI, cl. 2 (supremacy clause); 28 U.S.C. § 1338(a) (granting federal courts exclusive jurisdiction over federal copyright claims). Besides, the statute in question precludes suits “in any of the courts of the commonwealth.” Mass. Gen. Laws ch. 156C, § 54(a). That is plainly a reference to Massachusetts state courts only.

Tocci’s motion to dismiss (dkt. no. 9) is DENIED. Tocci’s answer to the amended complaint is due within fourteen days of this Order. The Clerk shall set a scheduling conference for April 8, 2019 at 2:00 p.m.

It is SO ORDERED.

/s/ George A. O’Toole, Jr.  
United States District Judge